

(c) Local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and cost support documents, electronically in accordance with the requirements established by the Chief, Common Carrier Bureau.

**§ 61.15 Notice requirements.**

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Common Carrier Bureau, may require the deferral of the effective date of any tariff filing made on less than 120-days' notice, so as to provide for a maximum of 120-days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of this chapter have been filed.

(3) Tariff filings proposing corrections must be made on at least 1 days' notice. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) *Non-dominant carriers.* Tariff filings of non-dominant carriers must be made on at least 1 days' notice.

(c) *Carriers subject to price cap regulation.* This paragraph applies only to carriers subject to price cap regulation. Such carriers must file tariffs according to the following notice periods.

(1) Local exchange carriers subject to price cap regulation shall file with this Commission a price cap tariff for access service for an annual period. Subject to § 61.15(d), such tariffs shall be filed to provide a minimum of 7 or 15 days' notice with a scheduled effective date of July 1. Such tariff filings shall be limited to changes in the Price Cap Indexes and rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes).

(2) Tariff filings that do not cause any API to exceed any applicable PCI pursuant to calculations provided for in § XX.105 of this part, and that do not cause any SBI to exceed its banding limitations established in § XX.106 of this part, shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act.

(3) Tariff filings that will cause any API to exceed its applicable PCI pursuant to calculations provided for in § XX.105 of this part, or that will cause any SBI to exceed its upper banding limitations established in § XX.106 of this part, must be made on at least 45 days' notice, or such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of the Commission's Rules have been filed.

(4) Carriers may propose rate or other tariff changes more often than annually, consistent with the requirements of this section.

(d) *Tariffs filed pursuant to section 204(a)(3) of the Communications Act.* Local exchange carriers filing tariffs pursuant to section 204(a)(3) of the Communications Act may file the tariff on 7-days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions of service other than a rate change, shall be filed on at least 15-days' notice.

(e) *Carriers filing pursuant to § 61.70.* A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.70 shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act.

(f) *Carriers filing pursuant to § 61.71.* A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.71 may be filed for a biennial period and scheduled effective date of July 1 of any odd numbered year. An eligible telephone company that does not elect to file an access tariff pursuant to the § 61.71 procedures may elect to file a biennial tariff pursuant to this section. Tariffs filed pursuant to § 61.71 shall be filed to provide a minimum of 7 or 15 days' notice pursuant to section 204(a)(3) of the Communications Act. For purposes of computing charges for access elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under Part 61 of this chapter.

#### **§ 61.16 Special notations.**

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in § 61.15. The following must be used:

Issued on not less than — days' notice under authority of — (specific reference to the special permission, decision, order or section of these rules).

If all the matter in a tariff publication is to become effective on less than the notice required in § 61.15, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in § 61.15, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication:

In compliance with the order of the Federal Communications Commission in — (a specific citation to the applicable order should be made).

#### **§ 61.17 Consecutive numbering.**

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

#### **§ 61.18 Contract-based tariffs.**

(a) *Scope.* This section shall apply to offerings as defined in § 61.3(i).

(b) Composition of contract-based tariffs shall comply with § 61.13(b) through (i).

(c) Contract-based tariffs shall include the following:

- (1) The term of the contract, including any renewal options;
- (2) A brief description of each of the services provided under the contract;
- (3) Minimum volume commitments for each service;
- (4) The contract price for each service or services at the volume levels committed to by the customers;
- (5) A general description of any volume discounts built into the contract rate structure; and
- (6) A general description of other classifications, practices and regulations affecting the contract rate.

#### **§ 61.19 Supplements.**

A carrier may not file a supplement except to suspend or cancel a tariff publication.

#### **§ 61.20 Cancellations.**

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* A carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.13(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.13(b)(3). (2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date. (3) When only a part of tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of § 61.15, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of \_\_\_\_\_  
(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates or regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.13(i)(1).

(f) *Carriers ceasing operations.* When a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.15, unless otherwise authorized by the Commission.

#### **§ 61.21 Rejection.**

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear

the notation

In lieu of —, rejected by the Federal Communications Commission.

**§ 61.22 Public information requirements.**

(a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.

(b) Issuing carriers must, at a minimum, provide a telephone number for public inquiries about information contained in its tariffs. The telephone number should be made readily available to all interested parties.

**§ 61.23 Duplication of rates or regulations.**

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

**§ 61.24 References to other instruments.**

(a) A tariff publication filed with the Commission may make reference to any other tariff publication filed with the Commission or to technical publications.

**§ 61.25 - 61.27 [Reserved]**

**CONCURRENCES**

**§ 61.28 Scope.**

Sections 61.29 through 61.33 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

**§ 61.29 Method of filing concurrences.**

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

### § 61.30 Format of concurrences.

(a) Concurrences must be issued in the following format:

#### CONCURRENCE

F.C.C. Concurrence No. \_\_\_\_\_

(Cancels F.C.C. Concurrence No. \_\_\_\_\_)

(Name of Carrier \_\_\_\_\_)

(Post Office Address \_\_\_\_\_)

(Date) \_\_\_\_\_ 19\_\_.

Secretary,

Federal Communications Commission, Washington, D.C. 20554.

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;
2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and
3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(NOTE: Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

#### TARIFF

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. \_\_\_\_\_, effective \_\_\_\_\_, 19\_\_.

(Name of concurring carrier) \_\_\_\_\_

By \_\_\_\_\_

(Title) \_\_\_\_\_

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and

successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

#### **§ 61.31 Concurrences for through services.**

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.13 (f), (g) and (h).<sup>1</sup> A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

#### **§ 61.32 Concurrences for other purposes.**

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

#### **§ 61.33 Revocation of concurrences.**

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

#### **REVOCATION NOTICE**

(Name of carrier \_\_\_\_\_)

(Post office address \_\_\_\_\_)

(Date) \_\_\_\_\_, 19—. Secretary,

Federal Communications Commission, Washing-ton, D.C. 20554.

Effective —, 19— FCC Concurrence No. —, issued by (Name of concurring carrier) in favor of (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connected carriers will thereafter be

found in Tariff FCC No. — issued by — (If the concurring carrier has ceased operations, the revocation notice must so indicate.)

(Name of carrier) \_\_\_\_\_

By \_\_\_\_\_

(Title) \_\_\_\_\_

## **APPLICATIONS FOR SPECIAL PERMISSION**

### **§ 61.34 Scope.**

Sections 61.35 and 61.36 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

### **§ 61.35 Terms of applications and grants.**

Applications for special permission must contain:

- (a) A description of the tariff publication proposed to be put into effect;
- (b) A statement citing the specific rules and the grounds on which waiver is sought;
- (c) A showing of good cause; and
- (d) A statement as to the date and method of filing the original of the application for special permission as required by § 61.36(b) and the date and method of filing the copies required by § 61.36 (a) and (c).

If a carrier elects not to use the authority granted within ninety days of its effective date, the original grant will be automatically cancelled by the Commission.

### **§ 61.36 Method of filing applications.**

- (a) An application for special permission must be addressed to "Secretary, Federal Communication Commission, Washington, DC 20554." The date on which the application is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.
- (b) In addition, for all special permission applications requiring fees as set forth at part 1, subpart G of this chapter, the issuing carriers must submit the original of the application letter (without attachments), FCC Form 155, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105. The carrier should submit these fee materials on the same date as the submission in paragraph (a).
- (c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the



issuing carrier must send a copy of the application letter with all attachments to the Secretary, Federal Communications Commission and a separate copy with all attachments to the Chief, Tariff and Pricing Analysis Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. \_\_\_\_\_

(Date) \_\_\_\_\_

Secretary Federal Communications Commission

Washington, DC 20554.

Attention: Common Carrier Bureau (here provide the statements required by § 61.152).

(Exact name of carrier) \_\_\_\_\_

(Name of officer or agent) \_\_\_\_\_

(Title of officer or agent) \_\_\_\_\_

## **ADOPTION OF TARIFFS AND OTHER DOCUMENTS OF PREDECESSOR CARRIERS**

### **§ 61.37 Adoption notice.**

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to § 61.37 of the Commission's Rules. The adoption notice, if used, must read as follows:

The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

### **§ 61.38 Changes to be incorporated in tariffs of successor carrier.**

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

## **SUSPENSIONS**

### **§ 61.39 Carrier to file supplement when notified of suspension.**

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

### **§ 61.40 Contents of supplement announcing suspension.**

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

### **§ 61.41 Vacation of suspension order; supplements announcing same; etc.**

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

## **MISCELLANEOUS**

### **§ 61.42 Delivered free of charges.**

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

### **§ 61.43 Tariff publications not returned.**

Tariff publications will not be returned.

## **ELECTRONIC TARIFF FILINGS**

### **§ 61.44 Scope**

- (a) This section applies to all tariff publications of carriers required to file tariff publications electronically, and documents, other than tariff publications, filed by parties permitted, but not required to file electronically.
- (b) All Incumbent Local Exchange Carriers are required to file tariff publications electronically.
- (c) All tariff publications shall be filed in a manner that is compatible and consistent with the technical requirements of the Electronic Tariff Filing System.
- (d) All Incumbent Local Exchange Carriers must file tariff publications using the Electronic Tariff Filing System for all tariff publications filed on or after July 1, 1998.

### **§ 61.45 Method of filing publications.**

- (a) Publications filed electronically must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in Section 1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day. The foregoing applies except in cases where the Electronic Tariff Filing System experiences system difficulties such that publications cannot be filed electronically. In such cases and upon timely notification to the Tariff and Pricing Analysis Branch, the filing will be date and time stamped with the current business date. In all other cases, the issuing carrier must revise the transmittal letter to reflect the correct issue and effective date. No additional filing fees will be required by the issuing carrier and no additional changes to the original publication are permitted.
- (b) In addition, except for issuing carriers filing fees electronically, for all tariff publications requiring fees as set forth in Part 1, Subpart G of this chapter, issuing carriers must submit the transmittal letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting tariff fees electronically should submit a copy of the Form 159, and the transmittal letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved". Issuing carriers should submit these fee materials on the same day as the transmission in paragraph (a) of this section.

(c) Carriers that are required to file publications electronically may not file those publications on paper or other media unless specifically required to do so by the Commission.

(d) Carriers that are required to file publications electronically need only transmit one set of files to the Commission. No other copies are required to be filed with the Commission.

(e) Carriers that are required to file publications electronically must continue to comply with the format requirements set forth in Part 61.

(f) Parties permitted to file documents electronically in tariff proceedings may not, when filing electronically, file paper copies with the Commission otherwise required for non-electronic filing.

**§ 61.46 Letters of transmittal and cover letters.**

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal must:

- (1) concisely explain the nature and purpose of the filing;
- (2) specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for the filing; and
- (3) contain a statement indicating the date and method of filing of the original of the transmittal letter as required by § 61.45(b).

(b) Carriers filing tariffs electronically pursuant to the notice requirements of Section 204(a)(3) of the Communications Act shall display prominently, in the upper right hand corner of the letter of transmittal, a statement that the filing is made pursuant to that Section and whether the tariff is filed on 7 or 15 days' notice.

(c) Any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal, the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under § 1.773(a)(4) of this chapter.

(d) The letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication and may not be requested in the transmittal letter.

(e) The letter of transmittal must be substantially in the format established in § 61.12(e) and § 61.12(f).

(f) All submissions of documents other than Base Documents must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a filing fee.

#### **§ 61.47 Base Documents.**

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be identified in the electronic submission as a new Base Document.

(b) Initially, carriers that currently have tariffs on file with the Commission must file a Base Document within five business days of the initiation of mandatory electronic filings.

(c) Subsequently, if there are revisions that become effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.

#### **§ 61.48 Method of filing applications for special permission.**

(a) An application for special permission filed electronically must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554." The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in Section 1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day. The foregoing applies except in cases where the Electronic Tariff Filing System experiences system difficulties such that applications cannot be filed electronically. In such cases and upon timely notification to the Tariff and Pricing Analysis Branch, the filing will be date and time stamped with the current business date. In all other cases, the issuing carrier must revise the application letter to reflect the correct issue date. No additional filing fees will be required by the issuing carrier and no additional changes to the original application are permitted.

(b) In addition, except for issuing carriers filing fees electronically, for special permission applications requiring fees as set forth in Part 1, Subpart G of this chapter, issuing carriers must submit the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers submitting filing fees electronically should submit a copy of the Form 159 and the application letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved". Issuing carriers should submit these fee materials on the same day as the transmission in paragraph (a) of this section.

**§ 61.49 [Reserved]**

**INCUMBENT LOCAL EXCHANGE CARRIER RATE OF RETURN REGULATION**

**§ 61.50 Filing of access service tariffs.**

(a) Except as provided in paragraph (g) of this section, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

(b) The requirements imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than July 1.

(c) Any access service tariff filing, the filing of any petitions for rejection, investigation or suspension and the filing of any responses to such petitions shall comply with the applicable rules of this Commission relating to tariff filings.

(d) The Association shall file a tariff as agent for all telephone companies that participate in an Association tariff.

(e) A telephone company or group of telephone companies may file a tariff that is not an Association tariff. Such a tariff may cross-reference the Association tariff for some access elements and include separately computed charges of such company or companies for other elements. A telephone company or group of affiliated telephone companies may elect to file its own tariff, including its own carrier common line tariff, for one or more of its study areas (for purposes of this subsection, the "subject study areas") without filing such tariff(s) for all of its study areas. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross-reference Association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements

(2) Such a tariff that cross-references an Association charge for any end user access element must cross-reference Association charges for all end user access elements;

(3) Such a tariff that cross-references an Association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference Association charges for all carrier's carrier access charges other than the Carrier Common Line element;

(4) Except for charges subject to price cap regulation, any charge in such a tariff that is

not an Association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

(5) [Reserved]

(6) A telephone company or companies that elect to file such a tariff, including a Carrier Common Line tariff, shall notify the Association not later than December 31 of the preceding year, if such company or companies did not file such a tariff in the preceding annual period or cross-reference Association charges in such preceding period that will not be cross-referenced in the new tariff.

(7) Zone pricing consistent with § 69.130 of this chapter is permitted in the subject study areas;

(8) Such a tariff shall not contain charges included in the Billing and Collection Category.

(9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff under the effective date of these rules will not be eligible for long term support pursuant to § 54.303 of this chapter in the subject study areas.

(10) Any data supporting a tariff that is not an Association tariff shall be consistent with any data that the filing carrier submitted to the Association.

(11) Any changes in Association common line tariff participation and Long Term Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of this subsection.

(f) A tariff for access service provided by a telephone company that may file an access tariff pursuant to § 61.71 may be filed for a biennial period with a scheduled effective date of July 1 of any odd numbered year. An eligible telephone company that does not elect to file an access tariff pursuant to the § 61.71 procedures may elect to file a biennial tariff pursuant to this section. For purposes of computing charges for access elements other than common line elements to be effective on July 1 of any even-numbered year, the Association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under this Part.

(g) The following rules apply to telephone company participation in the Association common line pool for telephone companies involved in a merger or acquisition.

(1) Any Association common line tariff participant that is party to a merger or

acquisition may continue to participate in the Association common line tariff.

(2) Any Association common line tariff participant that is party to a merger or acquisition may include other telephone properties involved in the transaction in the Association common line tariff, provided that the net addition of common lines to the Association common line tariff resulting from the transaction is not greater than 50,000, and provided further that, if any common lines involved in a merger or acquisition are returned to the Association common line tariff, all of the common lines involved in the merger or acquisition must be returned to the Association common line tariff.

(3) Telephone companies involved in mergers or acquisitions that wish to have more than 50,000 common lines reenter the Association common line pool may do so if they file with the Commission a reentry application, subject to the following conditions. Reentry may occur on the thirty-first (31<sup>st</sup>) day after such filing unless:

(i) The Commission requests additional time or information to process the application prior to the expiration of the thirty-day period; or

(ii) A party, in a timely manner, opposes the application or seeks conditional approval of the application.

(h) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs.

(1) In addition to the withdrawal provisions of paragraphs (e)(6) and (9) of this section, a telephone company or group of affiliated telephone companies that participates in one or more Association tariffs during the current tariff year and that elects to file price cap tariffs effective July 1 of the following tariff year, shall give the Association at least 6 months' notice that it is withdrawing from all Association tariffs, subject to the terms of this Rule, to participate in price cap regulation.

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions in paragraph (h)(4) of this section.

(3) Notwithstanding the provisions of paragraphs (e) (3), (6) and (9) of this section, in the event a telephone company withdraws from all Association tariffs for the purpose of filing price cap tariffs, such company shall exclude from such withdrawal all "average schedule" affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more "average schedule" affiliates in price cap regulation tariffs provided that each price cap affiliate relinquishes "average schedule" status and withdraws from all Association tariffs and any tariff filed pursuant to § 61.71(b)(2) of this chapter. See generally, §§ 69.605(c), 61.71(b) of this chapter;



MTS and WATS Market Structure; Average Schedule Companies, Report and Order, 103 FCC 2nd 1026-1027 (1986).

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

**§ 61.70 Supporting information to be submitted with letters of transmittal**

(a) *Scope.* Local exchange carriers serving fewer than 2% of the nation's subscriber access lines may submit Access Tariff filings pursuant to either this section or § 61.71. However, the Commission may require any carrier to submit such information as may be necessary for a review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.*

(1) *For new service tariffs filed pursuant to section 204(a)(3) of the Communications Act.* The material to be submitted for a tariff offering a new service, must include an explanation of the new matter, the reasons for the filing and the basis of ratemaking employed.

(2) *For tariffs filed pursuant to section 204(a)(3) of the Communications Act.* The material to be submitted for a tariff change which affects rates or charges, must include an explanation of the changed matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed matter.

(i) For a tariff change, the carrier must submit a brief description of the costs for all elements for the most recent 12 month period and projected costs for a representative 12 month period. The description should include an estimate of the effect during the representative period of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues.

(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.111 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(4) For a tariff that introduces a system of density pricing zones, as described in § 69.130 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, inter alia, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) *Working papers and statistical data.*

(1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff and Pricing Analysis Branch, must be provided two

sets of working papers containing the information underlying the data supplied in response to paragraph (b)(2) of this section, and a clear explanation of how the working papers relate to that information.

(2) Statistical studies, if any, must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.

(d) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(e) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data, if any, required by paragraphs (b) and (c) of this section.

**§ 61.71 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by local exchange carriers serving fewer than 2% of the nation's subscriber access lines.**

(a) *Scope.* This section provides for an optional method of filing for any local exchange carrier which elects to issue its own Access Tariff for a period commencing on or after April 1, 1989, and which serves fewer than 2% of the nation's subscriber access lines. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting tariff changes.* The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required in this Part. The basis for ratemaking must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Tariff Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the local exchange company that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, the local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.

(ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool settlement the carrier would have received if the carrier had continued to participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

(i) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^2}$$

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

*CCL Rev Req* = carrier common line revenue requirement for the most recent 12-month period, net of the amount to be recovered through SLCs and PICCs;

*CCL MOU<sub>b</sub>* = carrier common line minutes of for the most recent 12-month period;

*CCL MOU<sub>1</sub>* = *CCL MOU<sub>b</sub>* ; and

*CCL MOU<sub>0</sub>* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates be determined by the following formula:

$$\frac{\text{CCL Rev Req}}{\text{CCL MOU}_b * (1 + h/2)^{3/2}}$$

where:

$$h = \frac{\text{CCL MOU}_1 - 1}{\text{CCL MOU}_0}$$

And where:

*CCL Rev Req* = carrier common line revenue requirement for the most recent 24-month period, net of the amount to be recovered through SLCs and PICCs;

*CCL MOU<sub>b</sub>* = carrier common line minutes of for the most recent 24-month period;

*CCL MOU<sub>1</sub>* = carrier common line minutes of use for the 12-month period; and

$CCL\ MOU_0$  = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL\ Rev\ Req}{CCL\ MOU_b * (1 + h/2)^2}$$

where:

$$h = \frac{CCL\ MOU_1 - 1}{CCL\ MOU_0}$$

And where:

$CCL\ Rev\ Req$  = carrier common line settlement for the most recent 12-month period, net of the amount to be recovered through SLCs and PICCs;

$CCL\ MOU_b$  = carrier common line minutes of use for the most recent 12-month period;

$CCL\ MOU_1 = CCL\ MOU_b$  ; and

$CCL\ MOU_0$  = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association for the most recent 24-month period. SLCs and PICCs shall be based on cost and demand data for the same period, subject to the ceilings established in Part 69 of this chapter. Carrier common line rates shall be determined by the following formula:

$$\frac{CCL\ Rev\ Req}{CCL\ MOU_b * (1 + h/2)^{5/2}}$$

where:

$$h = \frac{CCL\ MOU_1 - 1}{CCL\ MOU_0}$$

And where:

$CCL\ Rev\ Req$  = carrier common line settlement for the most recent 24-month period, net of the amount to be recovered through SLCs and PICCs;

$CCL\ MOU_6$  = carrier common line minutes of for the most recent 24-month period;  
 $CCL\ MOU_1$  = carrier common line minutes of use for the 12-month period; and  
 $CCL\ MOU_0$  = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with § 61.70.

(c) *Maximum allowable rate of return.* Local exchange carriers filing tariffs under this section are not required to comply with §§ 65.700 through 65.701, inclusive, of the Commission's Rules, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be calculated based on the local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rates established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

- (1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and
- (2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier. Compliance may be shown through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and worksheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

## **RULES FOR NONDOMINANT COMMON CARRIERS**

### **§ 61.80 Retention of information concerning detariffed interexchange services.**

(a) A nondominant interexchange carrier shall maintain, for submission to the Commission upon request, price and service information regarding all of the carrier's detariffed interstate, domestic, interexchange service offerings. The price and service information maintained for purposes of this paragraph (a) shall include, but not be limited to, the information that such carrier makes available to the public, as well as documents supporting the rates, terms, and conditions of the carrier's detariffed

interstate, domestic, interexchange offerings. The information maintained pursuant to this section shall be maintained in a manner that allows the carrier to produce such records within ten business days.

(b) The price and service information maintained pursuant to this section shall be retained for a period of at least two years and six months following the date the carrier ceases to provide services pursuant to such rates, terms and conditions.

(c) A nondominant interexchange carrier shall file with the Commission, and update as necessary, the name, address, and telephone number of the individual(s) designated by the carrier to respond to Commission inquiries and requests for documents about the carrier's detariffed interstate, domestic, interexchange services.

# **PART 62**

**USTA  
BIENNIAL REVIEW PETITION  
SEPTEMBER 30, 1998**

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Rule No.	Action	Justification
Part 62	Delete	<p>Section 212 of the Telecommunications Act of 1934, as amended, makes it unlawful for any person to hold the position of officer or director of more than one carrier subject to the Act unless an exception is duly authorized under the regulations in 47 CFR 62. Part 62 provides a procedure to obtain such exception.</p> <p>The increase in competition, fiduciary duty requirements of officers and board members, the FCC ruling that AT&amp;T is non-dominant, and other laws such as the Foreign Corrupt Practices Act and the Clayton Act, all serve to render Part 62 and Act Section 212 no longer useful. Exceptions to Part 62 already include certain cellular radio licensees, non-dominant carriers, and holding or parent companies. Both Part 62 and Act 212 are no longer useful and should be deleted.</p>



# **PART 63**

**USTA  
BIENNIAL REVIEW PETITION  
SEPTEMBER 30, 1998**

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Rule	Action	Justification
63.01	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.02	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.03	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.04	Delete	Temporary services are currently being evaluated in the testing and market trial proceeding under way as part of the Biennial Review and are also under the control of State Commissions. Emergency services are already covered in state jurisdictions and should not be required to be regulated in multiple jurisdictions. The rules cause unnecessary delays and increased regulatory costs.
63.05	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably

Rule	Action	Justification
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		discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.06	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.07	Delete	In a competitive environment, dominant vs. non-dominant should be equal. No disparity should occur in treatment of either class of carrier.
63.08	Delete	No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.52	Delete	Domestic authorizations no longer required. No longer necessary in competitive markets. 214 applications merely cause unnecessary delays and increased regulatory costs. The competitive market place, with many providers of service, eliminates the need for regulatory control. Competition will constrain carriers' ability to charge unreasonably discriminatory or anticompetitive rates. By deleting, costs of regulation could be removed from consumer rates, advancing the public interest. Deletion also stimulate market entry, promoting competitive market conditions and enhancing completion among providers of services.
63.60	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs.

Rule	Action	Justification
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		In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.61	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.62	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.63	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.65	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.66	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.71	Delete	Discontinuance, outage, reduction, and impairment are already covered by

Rule	Action	Justification
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		state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.90	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.100	Delete	Discontinuance, outage, reduction, and impairment are already covered by state Commissions. Requirements should not be duplicated in multiple jurisdictions. Rules cause unnecessary delays and increased regulatory costs. In a competitive environment, a company will do what it has to do to retain customers on it's own initiative. Notification of any of these items would be done regardless of section directing that it be done.
63.500	Delete	Examples are not required if filings are deleted as recommended in this section.
63.501	Delete	Examples are not required if filings are deleted as recommended in this section.
63.504	Delete	Examples are not required if filings are deleted as recommended in this section.
63.505	Delete	Examples are not required if filings are deleted as recommended in this section.
63.601	Delete	Examples are not required if filings are deleted as recommended in this section.

# **PART 64**

**USTA  
BIENNIAL REVIEW PETITION  
SEPTEMBER 30, 1998**

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Rule No.	Action	Justification
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Subpart A Traffic Claims	Delete	No longer necessary because companies maintain records consistent with applicable rules for IRS, SEC, etc. Requirement that claims be in writing should be a company policy, not federal requirement.
Subpart C Furnishing of Facilities to Foreign Governments for International Communication	Delete	Not required by the Act
Subpart E Use of Recording Devices by Telephone Companies	Delete	Not required by the Act
Subpart G Enhanced Service & CPE	Delete	Market conditions have changed such that the maintenance of this rule would impede the development of a truly competitive market.
Subpart H Candidates for Federal Office	Delete	This issue is more appropriately addressed in Federal election law.
Subpart T IXC Separate Affiliate for ITCs	Delete	Not required by the Act

RULE	ACTION	JUSTIFICATION
47 CFR 64.901(b)(4)	Simplify the process of allocating Central Office and Outside Plant accounts by no longer requiring usage forecasts.	Requiring such detailed and complicated processes is costly with no added public benefit. Other regulatory processes such as Parts 36 and 69 do not require such a detailed and complex three-year forecast process for allocating network investment.
47 CFR 64.901(c)	Move this rule from Part 64 to Part 54.	This rule comes from the Universal Service Section 254 of the Act and should be in Part 54 of the rules, not Part 64. A proxy model, not Part 64, is being used to identify who will receive High Cost support. For Lifeline, 254(k) has been cited as one of the Act's sections that requires carriers to pass Lifeline support directly to customers. The purpose of 254(k) is to govern what is done with the Universal Service support money, 254(k) was not intended to be a change to Part 64. The order changing Part 64 was issued without notice and comment procedures.
47 CFR 64.903(6)(b)	Streamline the CAM process. Eliminate the requirement to quantify CAM changes to time reporting procedures, affiliate transactions and cost apportionment table. Eliminate the 15-day pre-approval requirement. Change RAO 19 to no longer require a product matrix in Section II of the CAM. This requirement is over and above what is in the rules.	It is not the quantification, but the appropriateness of the change itself, that should be the basis upon which a CAM change is accepted or rejected. Small carriers on rate of return regulation are not required to file cost allocation manuals or to notify the Commission when allocators change. Tier 1 Carriers are required to file cost allocation manuals and to estimate the quantification of the allocation matrix changes. Many Tier 1 carriers are on price cap regulation which breaks the link between cost and price. Tier 1 carriers should no longer be required to expend resources to estimate the quantification of the matrix changes.



47 CFR 64.904	Eliminate the requirement to perform costly annual external audits of Part 64 cost allocation.	Small carriers on rate of return regulation are not required to hire external auditors to conduct annual audits. Tier 1 Carriers are required to pay for expensive annual external audits. These audits can cost up to \$1 million a year. Carriers are also required to pay the Bureau annually for a detailed review of the external auditor workpapers. Tier 1 carriers should no longer be required to pay for both an annual external audit and an annual detailed Bureau review of the external audit. The external audit should no longer be required. (Even the Telecommunications Act established a sunset period for newly ordered external audits. The annual Part 64 external audits began with 1988 data)
47 CFR 64.901(b)	Replace the complicated and detailed Part 64 Cost Allocation process with a simplified approach using Class B level accounts and fixed factors developed from the last ARMIS 43-03 report filed before the rules change becomes effective.	Today Tier 1 LECs must file a CAM and must maintain processes for hundreds of cost pools. Each Class A account must be listed separately with its related cost pools. These cost pools can contain directly assigned costs resulting from various forms of time reporting, or the cost pools can be allocated using extensive studies or complicated allocation formulas. A more simplified, less costly, and less time consuming method for separating costs should be adopted.

47 CFR 64.901 to 64.904	Eliminate the requirement to allocate costs between regulated and nonregulated activities.	<p>Allocation processes, audits and reporting are costly. The requirement to separate costs between regulated and nonregulated activities is not a requirement placed on incumbent IXC's or CLECs. Carriers facing competition and price cap carriers should no longer be required to separate regulated costs from nonregulated costs.</p> <p>Part 64 is used to allocate current actual costs in the LEC books of account. Because Price Caps severs the link between price and cost, the amount of allocated cost is of no consequence. Hence, Part 64 offers no additional protection. As the Commission has already indicated, Part 64 costs are not used to price competitive services, and it is the antitrust laws that protect against predatory pricing (See Docket 86-111, par 40).</p> <p>Part 64 is not necessary to insure there is no cross subsidization between competitive and noncompetitive services for the purposes of Universal Service (Telecom Act 254K.) This requirement is achieved through passing Lifeline support directly to customers. (See Docket 96-45 , FCC 97-157 par. 336) Telecom Act Sections 272, 273 and 274 address separate the affiliate books of account, not the LEC books of account. Telecom Act Sections 260, 271, 275 and 276 are met with price caps.</p>
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## **TITLE 47--TELECOMMUNICATION**

### **CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION- (CONTINUED)**

#### **PART 64--MISCELLANEOUS RULES RELATING TO COMMON CARRIERS--Table of Contents**

##### **Subpart I--Allocation of Costs**

###### **□ 64.901 Allocation of costs.**

(a) Carriers required to separate their regulated costs from nonregulated costs shall use the attributable cost method of cost allocation for such purpose.

(b) In assigning or allocating costs to regulated and nonregulated activities, carriers shall follow the principles described herein.

(1) Tariffed services provided to a nonregulated activity will be charged to the nonregulated activity at the tariffed rates and credited to the regulated revenue account for that service.

(2) Carriers may have, but are not required to have, more than one cost category for each Class B Account. Fixed factors used to allocate common costs must be appropriately tied to the 19xx ARMIS 43-03 Report or to its supporting data.

###### **□ 64.902 Transactions with affiliates.**

Except for carriers, which employ average schedules in lieu of determining their costs, all carriers subject to Sec. 64.901 are also subject to the provisions of Sec. 32.27 of this chapter concerning transactions with affiliates.

###### **□ 64.903 Cost allocation manuals.**

(a) Each local exchange carrier with annual operating revenues that equal or exceed the indexed revenue threshold, as defined in Sec. 32.9000 of this chapter, shall file with the Commission within 90 days after publication of that threshold in the Federal Register, a manual containing the following information regarding its allocation of costs between regulated and unregulated activities:

- (1) A description of each of the carrier's nonregulated activities;
- (2) A list of all the activities to which the carrier now accords incidental accounting treatment and the justification therefor;
- (3) A chart showing all of the carrier's corporate affiliates;
- (4) A statement identifying each affiliate that engages in or will engage in transactions with the carrier and describing the nature, terms and frequency of each transaction;
- (5) A cost apportionment table showing, for each account containing costs incurred in providing regulated services, the cost pools; and the associated fixed factors; and
- (6) A description of the time reporting procedures that the carrier uses, for companies electing to directly assign certain costs.

(b) Each carrier shall ensure that the information contained in its cost allocation manual is accurate. Carriers must update their cost allocation manuals at least annually. Annual cost allocation manual updates shall be filed on or before the last working day of each calendar year. The Chief, Common Carrier Bureau may suspend any such charges for a period not to exceed 180 days, and may thereafter

allow the change to become effective or prescribe a different procedure.

(c) The Commission may by order require any other communications common carrier to file and maintain a cost allocation manual as provided in this section.

# **PART 65**

**USTA  
BIENNIAL REVIEW PETITION  
SEPTEMBER 30, 1998**

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Rule	Action	Justification
65.1(b)	<b><u>Application of part 65.</u></b> Revise Section 65.1(b) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this section is not applicable to price cap LECs. Revise language to reference new Part XX rules. Delete reference to Part 69.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary. Price cap LECs are no longer subject to Part 69, but instead Part XX.
65.600(a)	<b><u>Rate of return reports.</u></b> Revise Section 65.600(a) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this section is not applicable to price cap LECs.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary.
65.600(b) & (c)	<b><u>Rate of return reports.</u></b> Sections deleted.	Reporting requirements for ROR LECs eliminated as recommended by USTA ROR Access Reform Team. Reporting requirements for IXC's subject to price cap regulation are obsolete and are eliminated.
65.600(d)	<b><u>Rate of return reports.</u></b> Renumber section and revise language to reference new Part XX rules.	Price cap LECs are now subject to new Part XX rules.
65.700	<b><u>Determining the maximum allowable rate of return.</u></b> Delete section (a) requirement to determine maximum allowable rate of return on each access service category. Revise section (b) to renumber and to determine maximum allowable rate of return on an overall interstate basis.	Revisions recommended by USTA ROR Access Reform Team.

Rule	Action	Justification
65.702	<p><b><u>Measurement of interstate service earnings.</u></b></p> <p>Revise measurement of earnings to be on an overall interstate basis, instead of separately for each access service category. Eliminate description of access service categories.</p>	<p>Revisions recommended by USTA ROR Access Reform Team.</p>

USTA BIENNIAL REVIEW PROPOSAL

CODE OF FEDERAL REGULATIONS

TITLE 47--TELECOMMUNICATIONS

CHAPTER I

FEDERAL COMMUNICATIONS COMMISSION

PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND  
METHODOLOGIES



**PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND  
METHODOLOGIES**

**Subpart A--General**

Sec.

65.1 Application of part 65.

**Subpart B--Procedures**

- 65.100 Participation and acceptance of service designation.
- 65.101 Initiation of unitary rate of return prescription proceedings.
- 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.
- 65.103 Procedures for filing rate of return submissions.
- 65.104 Page limitations for rate of return submissions.
- 65.105 Discovery.

**Subpart C--Exchange Carriers**

- 65.300 Calculations of the components and weights of the cost of capital.
- 65.301 Cost of equity.
- 65.302 Cost of debt.
- 65.303 Cost of preferred stock.
- 65.304 Capital structure.
- 65.305 Calculation of the weighted average cost of capital.
- 65.306 Calculation accuracy.
- 65.450 Net income.

**Subpart D--Interexchange Carriers**

- 65.500 Net income.

**Subpart E--Rate of Return Reports**

- 65.600 Rate of return reports.

**Subpart F--Maximum Allowable Rates of Return**

- 65.700 Determining the maximum allowable rate of return.
- 65.701 Period of review.
- 65.702 Measurement of interstate service earnings.

**Subpart G--Rate Base**

- 65.800 Rate base.

- 65.810 Definitions.
- 65.820 Included items.
- 65.830 Deducted items.

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat., 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

#### Subpart A--General

##### § 65.1 Application of part 65.

(a) This part establishes procedures and methodologies for Commission prescription of an authorized unitary interstate exchange access rate of return and individual rates of return for the interstate exchange access rates of certain carriers pursuant to § 65.102. This part shall apply to those interstate services of local exchange carriers as the Commission shall designate by rule or order, except that all local exchange carriers shall provide to the Commission that information which the Commission requests for purposes of conducting prescription proceedings pursuant to this part.

(b) Local exchange carriers subject to price cap regulation, as specified in § XX of this chapter are exempt from the requirements of this part with the following exceptions:

- (1) Except as otherwise required by Commission order, carriers subject to § XX of this chapter shall employ the rate of return value calculated for interstate access services in complying with any applicable rules under part 36 that require a return component;
- (2) Carriers subject to § XX of this chapter shall be subject to § 65.600 only when a lower formula adjustment (LFAM) is necessary.
- (3) Carriers subject to § XX of this chapter shall continue to comply with the prescribed rate of return when offering any services specified in § XX.101(b) of this chapter unless the Commission otherwise directs; and
- (4) Carriers subject to § XX of this chapter shall comply with Commission information requests made pursuant to § 65.1(a).

[60 FR 28543, June 1, 1995]

## **Subpart B--Procedures**

### **§ 65.100 Participation and acceptance of service designation.**

(a) All interstate exchange access carriers, their customers, and any member of the public may participate in rate of return proceedings to determine the authorized unitary interstate exchange access or individual interstate exchange access rates of return authorized pursuant to § 65.102.

(b) Participants shall state in their initial pleading in a prescription proceeding whether they wish to receive service of documents and other material filed in the proceeding. Participants that wish to receive service by hand on the filing dates when so required by this part 65 shall specify in their initial pleading in a prescription proceeding, as specified in § 65.103 (b) and (c), an agent for acceptance of service by hand in the District of Columbia. The participant may elect in its pleading to receive service by mail or upon an agent at another location. When such an election is made, other participants need not complete service on the filing date, and requests for extension of time due to delays in completion of service will not be entertained.

[60 FR 28544, June 1, 1995]

### **§ 65.101 Initiation of unitary rate of return prescription proceedings.**

(a) Whenever the Commission determines that the monthly average yields on ten (10) year United States Treasury securities remain, for a consecutive six (6) month period, at least 150 basis points above or below the average of the monthly average yields in effect for the consecutive six (6) month period immediately prior to the effective date of the current prescription, the Commission shall issue a notice inquiring whether a rate of return prescription according to this part should commence. This notice shall state:

- (1) The deadlines for filing initial and reply comments regarding the notice;
- (2) The cost of debt, cost of preferred stock, and capital structure computed in accordance with §§ 65.302, 65.303, and 65.304; and
- (3) Such other information as the Commission may deem proper.

(b) Based on the information submitted in response to the notice described in § 65.101(a), and on any other information specifically identified, the Commission may issue a notice initiating a prescription proceeding pursuant to this part.

(c) The Chief, Common Carrier Bureau, may issue the notice described in § 65.101(a).

[60 FR 28544, June 1, 1995]

**§ 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.**

(a) Exclusion from unitary treatment will be granted for a period of two years if the cost of capital for interstate exchange service is so low as to be confiscatory because it is outside the zone of reasonableness for the individual carrier's required rate of return for interstate exchange access services.

(b) A petition for exclusion from unitary treatment and for individual treatment must plead with particularity the exceptional facts and circumstances that justify individual treatment. The showing shall include a demonstration that the exceptional facts and circumstances are not of transitory effect, such that exclusion for a period of a least two years is justified.

(c) A petition for exclusion from unitary treatment and for individual treatment may be filed at any time. When a petition is filed at a time other than that specified in § 65.103(b)(2), the petitioner must provide compelling evidence that its need for individual treatment is not simply the result of short-term fluctuations in the cost of capital or similar events.

[60 FR 28544, June 1, 1995]

**§ 65.103 Procedures for filing rate of return submissions.**

(a) Rate of return submissions listed in § 65.103 (b)(1) and (c) may include any relevant information, subject to the page limitations of § 65.104. The Chief, Common Carrier Bureau, may require from carriers providing interstate services, and from other participants submitting rate of return submissions, data, studies or other information that are reasonably calculated to lead to a full and fair record.

(b) In proceedings to prescribe an authorized unitary rate of return on interstate access services, interested parties may file direct case submissions, responses, and rebuttals. Direct case submissions shall be filed within sixty (60) calendar days following the effective date of a Commission notice initiating a rate of return proceeding pursuant to § 65.101(b). Rate of return

submissions responsive to the direct case submissions shall be filed within sixty (60) calendar days after the deadline for filing direct case submissions. Rebuttal submissions shall be filed within twenty-one (21) calendar days after the deadline for filing responsive submissions.

(c) Petitions for exclusion from unitary treatment and for individual treatment may be filed on the same date as the deadline for filing responsive rate of return submissions. Oppositions shall be filed within 35 calendar days thereafter. Rebuttal submissions shall be filed within 21 calendar days after the deadline for filing responsive submissions.

(d) An original and 4 copies of all rate of return submissions shall be filed with the Secretary.

(e) The filing party shall serve a copy of each rate of return submission, other than an initial submission, on all participants who have filed a designation of service notice pursuant to § 65.100(b).

[60 FR 28544, June 1, 1995]

**§ 65.104 Page limitations for rate of return submissions.**

Rate of return submissions, including all argument, attachments, appendices, supplements, and supporting materials, such as testimony, data and documents, but excluding tables of contents and summaries of argument, shall be subject to the following double spaced typewritten page limits:

(a) The direct case submission of any participant shall not exceed 70 pages in length.

(b) The responsive submission of any participant shall not exceed 70 pages in length.

(c) The rebuttal submission of any participant shall not exceed 50 pages in length.

(d) Petitions for exclusion from unitary treatment shall not exceed 70 pages in length. Oppositions to petitions for exclusion shall not exceed 50 pages in length. Rebuttals shall not exceed 35 pages in length.

[60 FR 28544, June 1, 1995]

§ 65.105 Discovery.

(a) Participants shall file with each rate of return submission copies of all information, including studies, financial analysts' reports, and any other documents relied upon by participants or their experts in the preparation of their submission. Information filed pursuant to this paragraph for which protection from disclosure is sought shall be filed subject to protective orders which shall be duly granted by the Chief, Common Carrier Bureau, for good cause shown.

(b) Participants may file written interrogatories and requests for documents directed to any rate of return submission and not otherwise filed pursuant to § 65.105(a). The permissible scope of examination is that participants may be examined upon any matter, not privileged, that will demonstrably lead to the production of material, relevant, decisionally significant evidence.

(c) Discovery requests pursuant to § 65.105(b), including written interrogatories, shall be filed within 14 calendar days after the filing of the rate of return submission to which the request is directed. Discovery requests that are not opposed shall be complied with within 14 calendar days of the request date.

(d) Oppositions to discovery requests made pursuant to § 65.105(b), including written interrogatories, shall be filed within 7 calendar days after requests are filed. The Chief, Common Carrier Bureau, shall rule upon any such opposition. Except as stayed by the Commission or a Court, any required response to a discovery request that is opposed shall be provided within 14 calendar days after release of the ruling of the Chief, Common Carrier Bureau.

(e) An original and 4 copies of all information described in § 65.105(a) and all requests, oppositions, and responses made pursuant to § 65.105 (a), (b) and (d) shall be filed with the Secretary.

(f) Service of requests, oppositions, and responses made pursuant to § 65.105 (b) and (d) shall be made upon all participants who have filed a designation of service notice pursuant to § 65.100(b). Service of requests upon participants who have filed designation of service notices pursuant to § 65.100(b) shall be made by hand on the filing dates thereof.

[60 FR 28544, June 1, 1995]

## Subpart C--Exchange Carriers

### § 65.300 Calculations of the components and weights of the cost of capital.

(a) Sections 65.301 through 65.303 specify the calculations that are to be performed in computing cost of debt, cost of preferred stock, and financial structure weights for prescription proceedings. The calculations shall determine, where applicable, a composite cost of debt, a composite cost of preferred stock, and a composite financial structure for all local exchange carriers with annual revenues in excess of \$100 million. The calculations shall be based on data reported to the Commission in FCC Report 43-02. (See 47 CFR 43.21). The results of the calculations shall be used in the represcription proceeding to which they relate unless the record in that proceeding shows that their use would be unreasonable.

(b) Excluded from cost of capital calculations made pursuant to § 65.300 shall be those sources of financing that are not investor supplied, or that are otherwise subtracted from a carrier's rate base pursuant to Commission orders governing the calculation of net rate base amounts in tariff filings that are made pursuant to section 203 of the Communications Act of 1934, 47 U.S.C. 203, or that were treated as "zero cost" sources of financing in section 450 and subpart G of this part 65. Specifically excluded are: accounts payable, accrued taxes, accrued interest, dividends payable, deferred credits and operating reserves, deferred taxes and deferred tax credits.

[60 FR 28545, June 1, 1995]

### § 65.301 Cost of equity.

The cost of equity shall be determined in represcription proceedings after giving full consideration to the evidence in the record, including such evidence as the Commission may officially notice.

[60 FR 28545, June 1, 1995]

### § 65.302 Cost of debt.

The formula for determining the cost of debt is equal to:

$$\text{Embedded Cost of Debt} = \frac{\text{Total Annual Interest Expense}}{\text{Average Outstanding Debt}}$$

Where:

" Total Annual Interest Expense" is the total interest expense for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Average Outstanding Debt" is the average of the total debt for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

#### § 65.303 Cost of preferred stock.

The formula for determining the cost of preferred stock is:

$$\text{Cost of Preferred Stock} = \frac{\text{Total Annual Preferred Dividends}}{\text{Proceeds from the Issuance of Preferred Stock}}$$

Where:

" Total Annual Preferred Dividends" is the total dividends on preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Proceeds from the Issuance of Preferred Stock" is the average of the total net proceeds from the issuance of preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

#### § 65.304 Capital structure.

The proportion of each cost of capital component in the capital structure is equal to:

Proportion in the capital structure =

$$\frac{\text{Book Value of particular component}}{\text{Book Value of Debt} + \text{Book Value of Preferred Stock} + \text{Book Value of Equity}}$$

Where:

" Book Value of particular component" is the total of the book values of that component for all local exchange carriers with annual revenues of \$100 million or more.

" Book Value of Debt+Book Value of Preferred Stock+Book Value of Equity" is the total of the book values of all the components for all local exchange carriers with annual revenues of \$100 million or more.

The total of all proportions shall equal 1.00.



[60 FR 28545, June 1, 1995]

**§ 65.305 Calculation of the weighted average cost of capital.**

(a) The composite weighted average cost of capital is the sum of the cost of debt, the cost of preferred stock, and the cost of equity, each weighted by its proportion in the capital structure of the telephone companies.

(b) Unless the Commission determines to the contrary in a prescription proceeding, the composite weighted average cost of debt and cost of preferred stock is the composite weight computed in accordance with § 65.304 multiplied by the composite cost of the component computed in accordance with § 65.301 or § 65.302, as applicable. The composite weighted average cost of equity will be determined in each prescription proceeding.

[60 FR 28546, June 1, 1995]

**§ 65.306 Calculation accuracy.**

In a prescription proceeding, the final determinations of the cost of equity, cost of debt, cost of preferred stock and their capital structure weights shall be accurate to two decimal places.

[60 FR 28546, June 1, 1995]

**§ 65.450 Net income.**

(a) Net income shall consist of all revenues derived from the provision of interstate telecommunications services regulated by this Commission less expenses recognized by the Commission as necessary to the provision of these services. The calculation of expenses entering into the determination of net income shall include the interstate portion of plant specific operations (Accounts 6110-6441), plant nonspecific operations (Accounts 6510-6565), customer operations (Accounts 6610-6623), corporate operations (Accounts 6710-6790), other operating income and expense accounts (Accounts 7100-7160), and operating taxes (Accounts 7200-7250), except to the extent this Commission specifically provides to the contrary.

(b) Gains and losses related to the disposition of plant in service items, shall be handled as follows:

(1) Gains related to property sold to others and leased back under capital leases for use in telecommunications services shall be recorded in Account 4360 (Other Deferred Credits) and credited

to Account 6563 (Amortization Expense--Tangible) over the amortization period established for the capital lease;

(2) Gains or losses related to the disposition of land and other nondepreciable items recorded in Account 7150 (Gains and Losses Resulting from the Sale of Land and Artworks) shall be included in net income for ratemaking purposes, but adjusted to reflect the relative amount of time such property was used in regulated operations and included in the rate base; and

(3) Proceeds related to the disposition of property depreciated on a group basis and used jointly in regulated and nonregulated activities, including sale-leaseback arrangements for property depreciated on a group basis, shall be credited to the related reserves and attributed to regulated and nonregulated in proportion to the accumulated regulated and nonregulated depreciation for that group.

(c) Gains or losses related to the disposition of property that was never included in the rate base shall not be considered for ratemaking purposes.

(d) Except for the allowance for funds used during construction, reasonable charitable deductions and interest related to customer deposits, the amounts recorded as nonoperating income and expenses and taxes (Accounts 7300-7450) and interest and related items (Accounts 7500-7540) and extraordinary items (Accounts 7600-7640) shall not be included unless this Commission specifically determines that particular items recorded in those accounts shall be included.

[53 FR 1029, Jan. 15, 1988, as amended at 60 FR 12139, Mar. 6, 1995]

#### **Subpart D--Interexchange Carriers**

##### **§ 65.500 Net income.**

The net income methodology specified in § 65.450 shall be utilized by all interexchange carriers that are so designated by Commission order.

[60 FR 28546, June 1, 1995]